IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 417 OF 2007

SHRI. RANJIT SATARDEKAR ... Petitioner
Versus
SHRI. PRABHAKAR CHODANKAR AND 2 ORS., ... Respondents

Mr. T. George John, Advcoate for the petitioner.

Coram:- R. S. MOHITE, J.

Date:- 6th September, 2007

P.C.

This petition is impugning an order dated 24.7.07, passed by the Civil Judge, Sr. Division, Ponda on Civil Misc. Application No.13/07/A and Civil Misc.Application No.279/2000/A. The first application was for condonation of delay and the second one was for setting aside the ex parte order dated 6.9.2006, whereby the Court had directed to proceed ex parte against the defendants. By the impugned order, both these applications have been allowed.

2. On a perusal of the Roznama which is submitted, it is seen that on 6.9.2006, the matter was not fixed for Judgment. My attention is drawn to a subsequent order which is dated 4.10.2006 wherein it is mentioned that the matter was fixed for Judgment. From the Roznama, it is seen that the Judge was on leave on the said date. Subsequent to the passing of this order, on 10.11.06, the Advocate for the plaintiff made a submission before the Court that the defendant No. 2 had expired. It was directed that he should take steps for bringing the LRs. of the defendant No.2 on record.

3. In this background, it cannot be said that the matter was fixed for

Judgment, since that application was made for bringing heirs on record. Reliance on the Judgment of the of the Apex Court in the case of Arjun Singh v. Mohindra Kumar and ors., AIR 1964 SC 993 is, therefore, misplaced. There is no error in the order passed by the trial Court. Hence, the petition is rejected.

R. S. MOHITE, J.

ssm.